IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2938 OF 2007.
IN
FIRST APPEAL NO. 1847 OF 2007.

Cyrus S.Havewala & anr. ... Applicants.
Versus.
Minoo Rustomji Shroff & others. ... Respondents.

Smt.Akhila Kaushik for the Applicants.

Shri Agnel Carneino with Shri Kaushal Tamhane for the Respondents Nos.1, 3 and 4.

CORAM : ABHAY S.OKA, J.

DATED : 21st November, 2007.

P.C.:

1. Heard the learned Advocates appearing for the parties. The First Appeal taking exception to the decree for possession has been admitted for final hearing. The learned Advocate for the Respondents pointed out that as on August 2007, the Applicants are in arrears of occupancy charges, municipal taxes, building repair cess and service charges amounting to Rs.1,00,556/-. The learned Advocate for the Applicants on instructions of the Applicants states that the Appellants are ready and willing to deposit a sum of Rs.5000/- per month with the Respondents till disposal of the Appeal without prejudice to the rights and contentions of the Applicants and subject to final outcome of the Appeal.

2. In view of the aforesaid statement, the decree

for possession will be stayed, subject to compliance with various conditions. Accordingly the Application is disposed of by passing the following order:

i) There will be interim relief in terms of prayer clause (a) subject to -

(1) the Applicants depositing with the Respondents a sum of Rs.1,00,556/- within a period of eight weeks from today;

(2) the Applicants depositing with the Respondents compensation amount at the rate of Rs.5000/- per month from April 2007 till the end of November 2007 within the period of eight weeks from today; and

(3) the Applicants depositing a sum of Rs.5000/- per month from December 2007 onwards with the Respondents on or before 10th day of each and every calender month;

ii) In case of any default by the Applicants, it will be open for the Respondents to apply for vacating interim relief.

iii) It is made clear that the payment of the

aforesaid amounts by the Applicants and receipt thereof by the Respondents will be without prejudice to the rights and contentions of the parties in the pending First Appeal and the said payments will be subject to the final outcome of the Appeal.

iv) It is made clear that the proceedings for fixation of mesne profit will go on during the pendency of the Appeal notwithstanding the order of stay.

v) There will be no order as to costs.

Judge.